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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,900	08/23/2001	Gregory J. Korchnak	61538	1000

109 7590 11/06/2003

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P.O. BOX 1967
MIDLAND, MI 48641-1967

EXAMINER

PIAZZA CORCORAN, GLADYS JOSEFINA

ART UNIT PAPER NUMBER

1733

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,900

Applicant(s)

KORCHNAK ET AL.

Examiner

Gladys J Piazza Corcoran

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species II, D, claims 25 and 26 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species I, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Specification

3. The disclosure is objected to because of the following informalities: The Specification on page 2 repeats "4058234, 4160465" twice in a row.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 25 recites the limitation "the detected leak(s)" in line 4. There is insufficient antecedent basis for this limitation in the claim. It is suggested to amend to -
-one of the detected leaks--.

Art Unit: 1733

7. Claim 26 is unclear by reciting the patch is made of woven or non-woven fabric, a composite material or a monolayer. These are non-elected species that have been withdrawn from consideration. It is suggested to amend the claim to recite only the elected species of a multilayer plastic laminate. Rejoinder will be considered upon indication of allowable subject matter and the basis thereof.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Leonard (US Patent No. 4,574,971).

Leonard discloses a method of repairing fuel tanks (column 1, lines 1-15; column 2, lines 17-27) by providing a tank with a surface with detected leaks (column 2, lines 57-59), providing a patch or plug (retainer plate) having a surface to be attached to the tank surface, coating the tank surface and/or the patch or plug surface with an adhesive (column 3, lines 4-10), placing the patch or plug over the detected leak such that the adhesive is sandwiched between the patch or plug surface and the tank surface column 3, lines 5-10), pressing the patch or plug surface against the tank and allowing the adhesive to cure to bond the patch or plug surface and the tank surface (column 3, lines 6-39).

Art Unit: 1733

10. Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. (US Patent No. 5,166,007).

Smith discloses a method of repairing fuel tanks by providing a tank with a surface with detected leaks (column 1, lines 1-18, 65-68), providing a patch or plug having a surface to be attached to the tank surface (patch 10), coating the tank surface and/or the patch or plug surface with an adhesive (column 2, lines 27-39; column 3, lines 60-68), placing the patch or plug over the detected leak such that the adhesive is sandwiched between the patch or plug surface and the tank surface (column 4, lines 1-16), pressing the patch or plug surface against the tank and allowing the adhesive to cure to bond the patch or plug surface and the tank surface (column 8, lines 31-64). As to claim 26, the patch is made of a multilayer plastic laminate (column 3, lines 35-59).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

Art Unit: 1733

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard (US Patent No. 4,574,971) as set forth above for claim 25 and further in view of Smith et al. (US Patent No. 5,166,007).

Leonard discloses the patch may be made of any suitable plastic material with sufficient structural integrity (column 6, lines 35-59), however does not specifically disclose a multilayer plastic laminate. It is well known in the art to provide patch materials for repairing tanks from a multilayer plastic material. For example, Smith discloses a method of repairing tanks where the patch material is of a multilayered plastic laminate (column 3, lines 35-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of repairing tanks as shown by Leonard with a well known patch material such as a multilayered plastic laminate in order to provide a structurally sound patch material as is well known in the art and exemplified by Smith.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gladys J Piazza Corcoran whose telephone number is (703) 305-1271. The examiner can normally be reached on M-F 8am-5:30pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone

Art Unit: 1733

number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Gladys J Piazza Corcoran
Examiner
Art Unit 1733

GJPC